



Land Use and Zoning Meeting Minutes

December 8, 2010

STAFF:	David Radachy
DATE:	December 7, 2010
APPROVED BY:	<i>ju3</i>

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 5:00 p.m. by Chairman Terriaco.

Attendance was taken by sign in sheet. The following members were present: Messrs. Kenyon, Hullihen, Klco, Morse, Terriaco and Welch, and Mrs. Malec. Staff: David Radachy.

Mr. Terriaco asked for any comments from the public. No comments were made.

Mr. Terriaco asked Mr. Radachy to present the cases. There were six cases on the agenda.

Concord Township Case #1– Text Amendment to Chapters 15, 18 and 21. Addition of language for Accessory Uses and Buildings.

Staff explained the types of accessory uses permitted in Sections 15.03 A and 18.03 A. He stated Concord is expanding accessory uses – adding hot tub, fences, gazebos, pavilions, decks, signs and satellite dishes. Also, they are moving real estate/insurance office to 15.03 A 1. He also stated that there is new language that states accessory uses shall not change the outside appearance of the dwelling or principle building and changing sign reference to 30.03 from 29.02. This meant that the home would need to continue to look like a house and not like a barber shop or other home occupation. Staff stated that they were concerned about the terms that are listed as customary home occupations, such as dress making and home cooking because these terms seem dated.

Staff stated that Concord was clarifying the general requirements for accessory uses and buildings in 15.03 D and 18.03 D. They were defining gross floor area as including the ground floor and any area equal to a half a story or greater above the ground floor. They are increasing the accessory building size in R-8 from 576 to 1,024 square feet. They are now requiring agriculture buildings to comply with setbacks and size requirements. Agriculture buildings would not be allowed to be over 1,024 square feet in size and 10 feet from the property line. The committee asked if that was fair for large lots and staff stated that ORC 519.21 allows for regulation on lots five acres and smaller. There are no limitations on lots over five acres.

Staff stated that the new regulations are forbidding accessory buildings to be used as living quarters or for home occupations. The accessory building cannot be larger than the main structure. An owner of a 1,200 square foot house on two acres of land, you cannot have the maximum accessory building size of 1,532 square feet, you are limited to 1,199 square feet. Concord is defining any structure with three sides and a roof as an accessory building. A permanent foundation is not required to be considered an accessory building. The Committee asked if property owners were allowed to have multiple accessory buildings, and staff stated no.

Staff stated that the new rules specified that only 25% of gross floor area located in the main building can be used for accessory uses (home occupations). The new regulations also gives examples of accessory uses. Concord is adding general requirements for swimming pools, hot tubs, fences, walls, gazebos, decks, parking and storing of RVs, signs, carports and satellite dishes in Sections 15.03 E and 18.03 E. Staff explained that they felt that the language “accessory building shall not be built on vacant lots” could not stop someone from separating an accessory building from the principle building through a lot split because they not are constructing an accessory building on a vacant lot, it already exists. Staff also stated that the way the staff was interpreting the definition of carport; it would include the temporary carport tents. Staff showed pictures of temporary carport tents and wondered if that was Concord’s intention.

The new regulations were clarifying the zoning permit requirements for accessory uses, buildings and structures in Section 15.03 F and identifying structures that do not need a permit in Sections 15.03 G and 18.03 G. Staff showed pictures of a basketball hoop in the right-of-way of Bellmore Road in Painesville Township. Staff stated that there was no language requiring these types to be located outside of the right-of-way or temporary easements.

Concord is adding requirements for temporary storage structures in Sections 15.03 H and 18.03 H. Staff stated that they concerned about calling this section Portable On-Demand Storage (PODS). PODS is a brand name. There is also another company named Go Minis. Staff stated PODS come in three different sizes, 8x7x7, 8x8x12 and 8x8x16. Go Minis come in 8x8x12, 8x8x16 and 8x8x20. He showed images from their respective websites. He also stated that there is no limitation on using a semi-trailer as a PODS. Staff stated that there is a rule requiring the PODS to be located outside of the right-of-way, but not outside of a temporary cul-de-sac easement.

The Committee was concerned about time limits for the PODS. The reasons people use the PODS are for moving, rehabilitation or reconstruction. You can easily remove a POD after moving, but it takes longer to rehabilitate a house, especially if there has been a fire. The PODS would be required for longer than 30 days. Committee felt that a longer time would be warranted. They were also concerned on who was going to inspect the PODS for flammable or explosive materials.

Concord is defining Family Day Care Homes, type “B” as an accessory use in Sections 15.03 I and 18.03 I. Staff stated that there is no county director of human services in Lake County. Staff contacted the Lake County General Health District on this issue. They stated that they are the agency that reviews and inspects daycares in Lake County.

The new language is modifying side yard clearance and allowable projections into the setback in 15.07 and 18.07. The new language reduces sideline clearance to 10 feet for accessory buildings. This is equal to current rear yard and it defines what projections can go into the setbacks. This includes bay windows, sills, cornices, etc. A height requirement for accessory structures was added in Sections 15.09, 18.09 and 21.15 and the amendment for Section 21.15 clarifies how building height is measured to be consistent with the definition in Section V.

Staff recommended that the text amendment be accepted with the following suggestions:

1. Revise the customary occupations and define them in Section V.
2. Revise the title of Sections 15.03 A and 18.03 A to “Types of Uses, ***Buildings and Structures*** Permitted”.
3. Revise Sections 15.03 D 1 and 18.03 D 1 to read ... (1,024) square feet on parcels with ***lot area*** of less than 1 acre...

4. Require that accessory structures and buildings may only be located on lots with a principle building in Sections 15.03 D 4 and 18.03 D 4.
5. Address temporary carports in either Sections 15.03 E and 18.03 E or 15.03 H and 18.03 H.
6. Require basketball hoops and similar structures to be installed outside of the right-of-way and any temporary road or cul-de-sac easements in Sections 15.03 G 7 and 18.03 G 7.
7. Prohibit temporary on demand storage units from being located in any temporary road or cul-de-sac easements in Sections 15.03 H 1 e and 15.03 H 1 e.
8. Change the name of the Portable On-Demand Storage (PODS) Sections 15.03 H and 18.03 H to a generic term like Temporary Portable Storage Units.
9. Put a maximum length and height limitations on the Temporary Portable Storage Units. Also state no semi-trailers.
10. Please contact the Lake County General Health District to make sure that they are the agency that inspects and certifies Class "B" home day care and change the certifying agency name in Sections 15.03 I and 18.03 I.
11. State that the maximum height is to be measured from the final grade or established grade.

The committee added the following suggestions:

1. Allow PODS to remain on site for 90 to 120 days with a possible extension of additional 90 to 120 days.

Mr. Morse made a motion to recommend the text amendment with staff and committee's suggestions.

Mr. Welch seconded the motion.

All voted "aye".

Motion passed.

Concord Township Case #2 – Definitions Chapter 5

Staff stated that they are adding definitions for terms that are being adding as accessory uses and buildings. Staff recommends that the text amendment be accepted with the following suggestions:

1. Create a definition of accessory use.
2. Create a definition for accessory building.
3. Have a definition for temporary construction trailer.
4. Change the name of the Portable On-Demand Storage (PODS) to a generic term like Temporary Portable Storage Units. PODS is a brand name. There is another named Go Minis.

Mr. Welch made a motion to recommend the text amendment with staff's suggestions.

Ms. Malec seconded the motion.

All voted "aye".

Motion passed.

Concord Township Case #3 – Parking Section 29

Staff stated that there is no prohibition of parking vehicles on the grass in the right-of-way or temporary cul-de-sac easement for temporary parking or vehicles for sale. There is no prohibition of keeping vehicles for sale outside of the right-of-way or temporary cul-de-sac easement.

Staff was concerned about the weight limited of 6,000 pounds in a platted subdivisions. Staff stated that an empty Ford E-Series van empty weighs 4,773 pounds and a standard heating and air conditioning service van will exceed 6,000 pounds. A Chevy Tahoe weighs 5,500 pounds. Staff showed a power point presentation on vehicle weight. Staff was also concerned about limiting the household to one commercial vehicle. This is regardless if multiple members (husband, wife, son or daughter) of the household need to park commercial vehicle on site. Only one vehicle can park on site. If a landscaper has a trailer and truck, he would be limited one or the other. The committee was also concerned about limiting the commercial vehicles. They felt it limited the property owner's livelihood.

Staff also noted that that 29.13 C 4 only allows for commercial vehicles to be in a residential district for picking or dropping off passengers or making deliveries. Service calls are not mentioned. A plumber would be unable to park his van in a driveway to service a broken pipe because he is not delivering or picking up passengers.

Staff was concerned about vehicles that used agriculture and have commercial plates. Vehicles used for agriculture should be exempt from the regulations for vehicle size and number of commercial vehicles and trailers. Staff is concerned about horse trailers.

The Committee was concerned on the number of recreational vehicles and boats allowed on a lot. They felt that there were a lot of property owners that owned both a boat and RV and they should be allowed to store them on their property. They also questioned if they the property owners who owned two RVs would be grandfathered and allowed to store them on site? Staff did not believe that they would be grandfathered. The committee was also concerned that this would be language that could be used to bring the Township into a neighbor's dispute. It was mentioned by the Committee that Perry Township tried similar language and it was met with distain from some of the local residents.

Staff recommended that the text amendment be accepted with the following suggestions:

1. Prohibit parking on the grass inside of a right-of-way or temporary easements in Section 29.09.
2. Allow commercial vehicles with a gross weight up to 10,000 pounds inside platted subdivisions in Section 29.13 C 2.
3. Allow for a maximum of two commercial vehicles or one commercial vehicle and one trailer in Section 29.13 C 1.
4. Allow service calls as an option for commercial vehicles in Section 29.11 C 4
5. Prohibit parking of vehicles for sale in the right-of-way or temporary road easements.

The Committee recommended that the gross weight for vehicles be up to 20,000 pounds for all residential districts, that there can be two commercial vehicles and up two trailers if the trailer and vehicle are one unit and they recommended that the property owners should be allowed to have multiple boats or recreational vehicles.

Committee recommended that the text amendment be accepted with the following suggestions:

1. Prohibit parking on the grass inside of a right-of-way or temporary easements in Section 29.09.
2. Allow commercial vehicles with a gross weight up to 20,000 pounds inside platted subdivisions in Section 29.13 C 2.
3. Allow for a maximum of two commercial vehicles or two commercial trailers or two commercial units, in Section 29.13 C 1. A commercial unit would be defined as commercial vehicle with an accessory trailer.
4. Allow service calls as an option for commercial vehicles in Section 29.11 C 4
5. Prohibit parking of vehicles for sale in the right-of-way or temporary road easements.
6. Not accept the language that limits the property owner to one recreational vehicle or one boat.

Mr. Kenyon made a motion to recommend the text amendment with the staff recommendations and Committee's recommendations and revisions.

Mr. Hullilhen seconded the motion.

All voted "aye".

Motion passed.

Concord Township Case #4 – Swimming Pools Section 31

Staff stated that there are types of steps and ladders for above ground pools that lock. Staff showed pictures of several examples. The zoning resolution does not address these types of ladders.

Staff recommended that Section 31.02 B read: A fence enclosure is not required for above ground pools if the pool has non-climbable vertical sides not less than 4 feet in height, measured from the grade at the base of the wall, ***and the pool's access is controlled through a removable ladder or steps, or a deck with a three foot high fence around it and locking three foot high gate, or any controlled access system approved by the zoning inspector.***

Mr. Welch made a motion to recommend the text amendment with staff's suggestions.

Mr. Morse seconded the motion.

All voted "aye".

Motion passed.

Concord Township Case #5 – Fences Section 34

Staff recommended acceptance of the text amendment without change. No discussion.

Mr. Welch made a motion to recommend the text amendment.

Mr. Klco seconded the motion.

All voted "aye".

Motion passed.

Concord Township Case #6 – Section 6.13 and revision of 11.03

Staff stated that Concord Township is now requiring a zoning permit for agricultural uses. They are also adding language that allows them to regulate agriculture and agricultural buildings for lots five acres and smaller. This power is granted to by ORC 519.21.

Staff was concerned on the limitation of only products produced on site can be sold on site in Section 6.13 A. It conflicts with Section 6.13 F and ORC 519.21. These sections state 50% of the income generated from a farm stand has to come from the site or from other sites owned by the farmer.

ORC 519.21 states, "Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section [519.02](#) of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety."

Staff also stated that 6.13 C 1, 2, and 3 seem out of place. There is no connection to the rest of the section.

The Committee was concerned about requiring a zoning permit and fee for agriculture. They asked why Concord was adding it. Staff stated that Concord has gotten a lot of agriculture use exemptions that are not agriculture. Their legal advisor stated that they there is no time limit on starting an agriculture use. If the property owner states it is to be agriculture, then it is agricultural and the Township cannot do anything about it. These changes allow the Township to administer these uses.

Staff recommends the text amendment be accepted with the following suggestions:

1. Remove the language that states "provided no product shall be sold except those which are produced on the premises." from Section 6.13 A.
2. Create a new section for building used for housing for animals and move C 1, 2 and 3 to that section.

6.13 D Buildings or structures used for animals for Dairy or Poultry Husbandry (*New Section Title*)

1. Whenever one or more animals are kept outdoors on a lot, an accessory building for their shelter shall be constructed on the lot. (*Currently 6.13 C 1*)
2. The area of the accessory building intended to provide shelter for one or more animals shall not exceed the maximum area permitted for accessory buildings in the district in which the buildings in the district in which the building is located. (*Currently 6.13 C 2*)
3. Such accessory building shall comply with the following minimum setback or clearance requirements: (*Currently 6.13 C 3*)
 - a. 70 Feet from the street right-of-way.
 - b. 25 feet from the side or rear property line.

c. 100 feet from any water well.

Mr. Welch made a motion to recommend the text amendment with staff's suggestions.

Mr. Klco seconded the motion.

All voted "aye".

Motion passed.

Mr. Radachy stated that was the end of the Committee business.

Mr. Terriaco asked for any new business.

Staff stated that the proposed schedule for meetings was in tonight's packet.

Staff also gave the option of electing new officers now. The Committee decide to wait until the next meeting.

Mr. Terriaco asked for old business. There was none.

Mr. Terriaco asked for any comments from the public. No comments were made.

Mr. Welch made a motion to adjourn.

Ms. Malec seconded the motion.

All voted "Aye". Motion passed. The meeting adjourned at 6:00 PM